

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ROBERT DORGAY,

Plaintiff,

v.

Case No. 22-CV-0847

REIFF et al.,

Defendants.

DEFENDANTS' PROPOSED FINDINGS OF FACT

1. On August 26, 2015, Milwaukee Police Department Officers Michael Dederich, Harold Almas, Andrew Schnell and Bradley Kwiatkowski (“Officers”), and Wisconsin Department of Corrections Probation Agents Paul Reiff and Steven Boehm (“Agents”) responded to Robert Dorgay’s (“Plaintiff”) residence to arrest Plaintiff for a valid Violation of Probation Warrant. *Affidavit of James Lewis*, ¶ 2, at p. 13¹.

2. At the request of Agent Reiff, additional Agents and Officers were called to the scene because the Agents and Officers had knowledge of Plaintiff’s violent history. *Affidavit of James Lewis*, ¶ 3, at p. 7.

3. At the time the Officers and Agents responded to Plaintiff’s residence to arrest him, the Officers and Agents had knowledge that Plaintiff had open court cases there were pretty violent and that Plaintiff was a high value target. *Affidavit of James Lewis*, ¶ 4, at p. 28.

4. The Officers and Agents were permitted entry into the apartment where Plaintiff was located and all Officers and Agents entered the residence. *Affidavit of James Lewis*, ¶ 4, at p.

¹ The citation to *Affidavit of James Lewis*, ¶ ____ at p. ____ means a citation to an Exhibit attached to the *Affidavit of James Lewis* and citation to the page number of the “Bates” stamped documents provided in Defendant’s Response to Plaintiff’s Request for Production of Documents.

30.

5. Upon entry, Officer Dederich immediately observed Plaintiff standing by the end of the kitchen counter. *Affidavit of James Lewis*, ¶ 4, at p. 30.

6. Officer Dederich and Agent Reif immediately approached Plaintiff, advised Plaintiff to put his hands behind his back, and took control of his arms. *Affidavit of James Lewis*, ¶ 3, at p. 6.

7. During that time, Officers Kwiatkowski and Agent Boehm were in the kitchen area of the residence and Officers Almas and Schnell were near the door of the residence. *Affidavit of James Lewis*, ¶ 4, at p. 30

8. Officer Dederich took control of Plaintiff's left arm as Agent Reif took control of Plaintiff's right arm, then Officer Dederich advised Plaintiff that there was a warrant for his arrest for a violation of probation. *Affidavit of James Lewis*, ¶ 4, at p. 31.

9. After advising Plaintiff of the warrant for his arrest, Officer Dederich felt tension as Plaintiff tensed up his left arm and Plaintiff attempted to move his arm forward by swinging his elbow outwards and upwards; following that resistance, Officer Dederich orally instructed Plaintiff to stop resisting. *Affidavit of James Lewis*, ¶ 4, at p. 31.

10. Responding to Plaintiff's active resistance, Officer Dederich and Agent Reif used a passive countermeasure, described as a modified hug-yourself technique from the escort position to decentralize Plaintiff in an effort to regain control of Plaintiff. *Affidavit of James Lewis*, ¶ 5, at p. 3.²

11. Only Officer Dederich and Agent Reif participated in the decentralization.

² Page number references to Exhibit 4 (attached at ¶ 5) of Affidavit of James Lewis is a citation to the actual page number of the Exhibit. Exhibit 4 was provided to Plaintiff before the close of discovery, but was drafted after the Defendant's Response to Plaintiffs Request for Production of Documents; therefore, Exhibit 4 does not have "Bates" numbering.

Affidavit of James Lewis, ¶ 4, at p. 31.

12. After being decentralized, Plaintiff continued to tense his muscles and Officer Dederich gave Plaintiff verbal instructions to stop resisting and place his hands behind his back.

Affidavit of James Lewis, ¶ 4, at p. 31.

13. While on the ground, Officer Dederich and Agent Reif were able to overcome Plaintiff's active resistance, stabilize Plaintiff, and secure Plaintiff in handcuffs. *Affidavit of James Lewis*, ¶ 5, at p. 3.

14. While officer's were decentralizing Plaintiff, Plaintiff's resistive actions did not allow Officer Dederich or Agent Reif to secure Plaintiff's head and other officers did not have enough time to respond in a way to stop Plaintiff's head from making contact with the ground. *Affidavit of James Lewis*, ¶ 2, at p. 6.

15. After Plaintiff was secured with handcuffs, Plaintiff was inspected for injury and it was discovered that Plaintiff had a laceration above his left eye. *Affidavit of James Lewis*, ¶ 2, at p. 6.

16. At 5:29 p.m., Officers Almas and Schnell conveyed Plaintiff to St. Francis Hospital for medical clearance. *Affidavit of James Lewis*, ¶ 2, at p. 15.

17. At 10:43 p.m., after receiving medical clearance from St. Francis Hospital, Plaintiff was conveyed to the Milwaukee County Criminal Justice Facility. *Affidavit of James Lewis*, ¶ 2, at p. 18.

18. Milwaukee Police Sergeant David Paszkiewicz completed a "Use of Force" investigation report; among other things, the documented Plaintiff's injuries resulting from Plaintiff's arrest:



Affidavit of James Lewis at ¶6.

19. Plaintiff was charged with two (2) counts of felony Bail Jumping, misdemeanor Resisting and Officer, and a felony Violation of Probation warrant. *Affidavit of James Lewis*, ¶ 3, at p. 1.

20. On July 25, 2022, six (6) years, ten (10) months, and twenty-nine (29) days after Plaintiff's arrest, he filed his complaint. *See* Dkt. 1.

Dated and signed at Milwaukee, Wisconsin this 3rd day of August, 2023.

TEARMAN SPENCER
City Attorney

s/James D. Lewis
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